

# SENATE BILL 620

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11r2070  
CF HB 670

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By: **Senators Manno, Forehand, Montgomery, Pinsky, and Ramirez**

Introduced and read first time: February 4, 2011

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2011

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Real Property – Retaliatory Actions – Landlords and Mobile Home Park**  
3 **Owners**

4 FOR the purpose of altering the actions that a landlord is prohibited from taking  
5 against a tenant for certain reasons; altering the reference to certain prohibited  
6 actions of a landlord; authorizing a tenant to raise a retaliatory action of a  
7 landlord in defense to an action for possession or ~~in a~~ as an affirmative claim for  
8 certain damages; creating a certain rebuttable presumption in an action by or  
9 ~~against a tenant under certain circumstances;~~ altering the judgment that a  
10 court may enter against a landlord or a tenant under certain circumstances;  
11 altering the conditions of certain relief; altering the circumstances under which  
12 certain actions by a landlord may not be deemed to be retaliatory; altering the  
13 right of a landlord or tenant to terminate or not renew a tenancy; altering the  
14 actions that a mobile home park owner is prohibited from taking against a  
15 resident for certain reasons; altering the reference to certain prohibited actions  
16 of a park owner; authorizing a resident to raise a retaliatory action of a park  
17 owner in defense to an action for possession or ~~in a~~ as an affirmative claim for  
18 certain damages; creating a certain rebuttable presumption in an action by or  
19 ~~against a resident under certain circumstances;~~ altering the judgment that a  
20 court may enter against a park owner under certain circumstances; altering the  
21 circumstances under which certain actions by a park owner may not be deemed  
22 to be retaliatory; altering the right of a park owner or resident to terminate or  
23 not renew a rental agreement; providing that this Act shall supersede a  
24 comparable retaliatory action ordinance enacted by a county under certain

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 circumstances; making technical and stylistic changes; and generally relating to  
2 retaliatory actions by landlords and mobile home park owners.

3 BY repealing and reenacting, with amendments,  
4 Article – Real Property  
5 Section 8–208.1 and 8A–1301  
6 Annotated Code of Maryland  
7 (2010 Replacement Volume and 2010 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article – Real Property**

11 8–208.1.

12 (a) (1) [No] **FOR ANY REASON LISTED IN PARAGRAPH (2) OF THIS**  
13 **SUBSECTION, A landlord [shall] OF ANY RESIDENTIAL PROPERTY MAY NOT:**

14 (I) [evict] **BRING OR THREATEN TO BRING AN ACTION FOR**  
15 **POSSESSION AGAINST a tenant [of any residential property or];**

16 (II) [arbitrarily] **ARBITRARILY** increase the rent or decrease  
17 the services to which [the] A tenant has been entitled; **OR**

18 (III) ~~REFUSE TO RENEW A TENANCY~~ **TERMINATE A PERIODIC**  
19 **TENANCY.**

20 (2) **A LANDLORD MAY NOT TAKE AN ACTION THAT IS LISTED**  
21 **UNDER PARAGRAPH (1) OF THIS SUBSECTION** for any of the following reasons:

22 [(1)] (I) [Solely because] **BECAUSE** the tenant or the tenant's agent  
23 has [filed] ~~MADE~~ **PROVIDED WRITTEN OR ACTUAL NOTICE OF** a good faith  
24 [written] complaint[, or complaints, with] **ABOUT AN ALLEGED VIOLATION OF THE**  
25 **LEASE, VIOLATION OF LAW, OR CONDITION ON THE LEASED PREMISES THAT IS A**  
26 **SUBSTANTIAL THREAT TO THE HEALTH OR SAFETY OF OCCUPANTS TO:**

27 1. [the] **THE** landlord; or

28 2. [with any] **ANY** public agency [or agencies] against  
29 the landlord;

30 [(2)] (II) [Solely because] **BECAUSE** the tenant or the tenant's agent  
31 has:

1                   1.    [~~filed~~] **FILED** a lawsuit[, or lawsuits,] against the  
2 landlord; or

3                   2.    **TESTIFIED OR PARTICIPATED IN A LAWSUIT**  
4 **INVOLVING THE LANDLORD; OR**

5                   [(3)] (III) [Solely because] **BECAUSE** the tenant ~~is a member or~~  
6 ~~organizer of~~ **HAS PARTICIPATED IN** any tenants' organization.

7                   (b)   (1)   [Evictions described in subsection (a) of this section shall be called  
8 "retaliatory evictions".] **A LANDLORD'S VIOLATION OF SUBSECTION (A) OF THIS**  
9 **SECTION IS A "RETALIATORY ACTION".**

10                   (2)   **A TENANT MAY RAISE A RETALIATORY ACTION OF A**  
11 **LANDLORD IN:**

12                   (1)   **IN DEFENSE TO AN ACTION FOR POSSESSION; OR IN A**  
13 **CLAIM FOR DAMAGES**

14                   (II)   **AS AN AFFIRMATIVE CLAIM FOR DAMAGES RESULTING**  
15 **FROM A RETALIATORY ACTION OF A LANDLORD OCCURRING DURING A**  
16 **TENANCY.**

17                   (c)   (1)   ~~IN THIS SUBSECTION, "REBUTTABLE PRESUMPTION" MEANS~~  
18 ~~THAT THE TRIER OF FACT MUST FIND THE EXISTENCE OF A FACT PRESUMED~~  
19 ~~UNLESS AND UNTIL EVIDENCE IS INTRODUCED THAT WOULD SUPPORT A~~  
20 ~~FINDING OF THE NONEXISTENCE OF THE FACT.~~

21                   (2)   ~~IN AN ACTION BY OR AGAINST A TENANT:~~

22                   (i)   ~~EVIDENCE THAT THE TENANT ENGAGED IN A~~  
23 ~~PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION~~  
24 ~~WITHIN 6 MONTHS BEFORE AN ALLEGED RETALIATORY ACTION OCCURRED~~  
25 ~~CREATES A REBUTTABLE PRESUMPTION THAT THE LANDLORD'S CONDUCT~~  
26 ~~VIOLATED SUBSECTION (A) OF THIS SECTION; AND~~

27                   (ii)   ~~A REBUTTABLE PRESUMPTION DOES NOT ARISE IF THE~~  
28 ~~TENANT ENGAGED IN A PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2)~~  
29 ~~OF THIS SECTION AFTER RECEIVING NOTICE OF A PROPOSED RENT INCREASE~~  
30 ~~OR DIMINUTION OF SERVICES.~~

31                   {(c)} (D)   (1)   If in any [eviction] proceeding the [judgment be] **COURT**  
32 **FINDS** in favor of the tenant [for any of the aforementioned defenses] **BECAUSE THE**  
33 **LANDLORD ENGAGED IN A RETALIATORY ACTION**, the court may enter judgment

1 **AGAINST THE LANDLORD** for **DAMAGES NOT TO EXCEED THE EQUIVALENT OF 3**  
 2 **MONTHS' RENT**, reasonable attorney fees, and court costs [against the landlord].

3 (2) If in any [eviction] proceeding the court finds that a tenant's  
 4 assertion of a retaliatory [eviction defense] **ACTION** was in bad faith or without  
 5 substantial justification, the court may enter judgment **AGAINST THE TENANT** for  
 6 **DAMAGES NOT TO EXCEED THE EQUIVALENT OF 3 MONTHS' RENT**, reasonable  
 7 attorney fees, and court costs [against the tenant].

8 ~~[(d)]~~ The relief provided under this section is conditioned upon:

9 **(1) THE TENANT BEING CURRENT ON THE RENT DUE AND OWING**  
 10 **TO THE LANDLORD AT THE TIME OF THE ALLEGED RETALIATORY ACTION,**  
 11 **UNLESS THE TENANT WITHHOLDS RENT IN ACCORDANCE WITH THE LEASE, §**  
 12 **8-211 OF THIS SUBTITLE, OR A COMPARABLE LOCAL ORDINANCE; AND**

13 **(2) IF THE ALLEGED RETALIATORY ACTION IS A LANDLORD'S**  
 14 **TERMINATION OF A PERIODIC TENANCY;**

15 ~~[(1)]~~ **(I)** In the case of tenancies measured by a period of one month  
 16 or more, the court having not entered against the tenant more than 3 judgments of  
 17 possession for rent due and unpaid in the 12-month period immediately prior to the  
 18 initiation of the action by the tenant or by the landlord; **OR**

19 ~~[(2)]~~ **(II)** In the case of tenancies requiring the weekly payment of  
 20 rent, the court having not entered against the tenant more than 5 judgments of  
 21 possession for rent due and unpaid in the 12-month period immediately prior to the  
 22 initiation of the action by the tenant or by the landlord, or, if the tenant has lived on  
 23 the premises 6 months or less, the court having not entered against the tenant 3  
 24 judgments of possession for rent due and unpaid.}]

25 [(e) No eviction shall be deemed to be a "retaliatory eviction" for purposes of  
 26 this section upon the expiration of a period of 6 months following the determination of  
 27 the merits of the initial case by a court (or administrative agency) of competent  
 28 jurisdiction.]

29 **(E) AN ACTION BY A LANDLORD MAY NOT BE DEEMED TO BE**  
 30 **RETALIATORY FOR PURPOSES OF THIS SECTION IF THE ALLEGED RETALIATORY**  
 31 **ACTION OCCURS MORE THAN 6 MONTHS AFTER A TENANT'S ACTION THAT IS**  
 32 **PROTECTED UNDER SUBSECTION (A)(2) OF THIS SECTION.**

33 ~~[(f)]~~ ~~[(e)]~~ [Nothing] **AS LONG AS A LANDLORD'S ~~NONRENEWAL~~**  
 34 **TERMINATION OF A TENANCY IS NOT THE RESULT OF A RETALIATORY ACTION,**  
 35 **NOTHING** in this section may be interpreted to alter the landlord's or the tenant's  
 36 rights to terminate or not renew a tenancy ~~governed by a written lease for a stated~~

1 ~~term of greater than 1 month~~ at the expiration of the term ~~or at any other time as the~~  
 2 ~~parties may specifically agree~~ **FOR NONRETALIATORY REASONS, INCLUDING IF**  
 3 **THE TENANT OR THE TENANT'S FAMILY OR GUESTS HAVE:**

4 **(1) DISRUPTED OR INTERFERED WITH THE QUIET ENJOYMENT OF**  
 5 **THE PROPERTY, OTHER RESIDENTS, THE LANDLORD, OR THE LANDLORD'S**  
 6 **STAFF;**

7 **(2) ENGAGED IN CRIMINAL ACTIVITY, REGARDLESS OF WHETHER**  
 8 **THE INDIVIDUAL IS CONVICTED;**

9 **(3) CREATED OR CAUSED A PUBLIC NUISANCE ON THE**  
 10 **PROPERTY;**

11 **(4) VIOLATED A PROVISION OF A LOCAL HOUSING, ZONING, OR**  
 12 **LIVEABILITY CODE THAT, UNDER THE CODE, IS THE RESPONSIBILITY OF THE**  
 13 **TENANT; OR**

14 **(5) BREACHED OR OTHERWISE FAILED TO COMPLY WITH THE**  
 15 **TERMS OF THE LEASE AGREEMENT BETWEEN THE PARTIES.**

16 ~~[(g)] (f)~~ [In the event] IF any county [or Baltimore City shall have] HAS  
 17 enacted OR ENACTS an ordinance comparable in subject matter to this section, [that  
 18 ordinance] THIS SECTION shall supersede the provisions of [this section] THE  
 19 ORDINANCE TO THE EXTENT THAT THE ORDINANCE PROVIDES LESS  
 20 PROTECTION TO A TENANT.

21 8A-1301.

22 (a) (1) [A] FOR ANY REASON LISTED IN PARAGRAPH (2) OF THIS  
 23 SUBSECTION, A park owner may not:

24 (i) [evict] BRING OR THREATEN TO BRING AN ACTION FOR  
 25 POSSESSION AGAINST a resident [or];

26 (ii) [arbitrarily] ARBITRARILY increase the rent or decrease  
 27 the services to which [the] A resident has been entitled; OR

28 (iii) ~~REFUSE TO RENEW A RENTAL AGREEMENT~~ **TERMINATE**  
 29 **A PERIODIC TENANCY.**

30 (2) A PARK OWNER MAY NOT TAKE AN ACTION THAT IS LISTED  
 31 UNDER PARAGRAPH (1) OF THIS SUBSECTION for any of the following reasons:



1 ~~(I) EVIDENCE THAT THE RESIDENT ENGAGED IN A~~  
 2 ~~PROTECTED ACTIVITY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION~~  
 3 ~~WITHIN 6 MONTHS BEFORE AN ALLEGED RETALIATORY ACTION OCCURRED~~  
 4 ~~CREATES A REBUTTABLE PRESUMPTION THAT THE PARK OWNER'S CONDUCT~~  
 5 ~~VIOLATED SUBSECTION (A) OF THIS SECTION; AND~~

6 ~~(H) A REBUTTABLE PRESUMPTION DOES NOT ARISE IF THE~~  
 7 ~~RESIDENT ENGAGED IN A PROTECTED ACTIVITY DESCRIBED IN SUBSECTION~~  
 8 ~~(A)(2) OF THIS SECTION AFTER RECEIVING NOTICE OF A PROPOSED RENT~~  
 9 ~~INCREASE OR DIMINUTION OF SERVICES.~~

10 ~~{(c)} (D)~~ If in any [eviction] proceeding the [judgment is] COURT FINDS in  
 11 favor of the resident [for any of the aforementioned defenses] BECAUSE THE PARK  
 12 OWNER ENGAGED IN A RETALIATORY ACTION, the court may enter judgment  
 13 AGAINST THE PARK OWNER for DAMAGES NOT TO EXCEED THE EQUIVALENT OF 3  
 14 MONTHS' RENT, reasonable attorney's fees, and court costs [against the park owner].

15 [(d) An eviction may not be deemed to be a "retaliatory eviction" for purposes  
 16 of this section upon the expiration of a period of 6 months following the determination  
 17 of the merits of the initial case by a court or administrative agency of competent  
 18 jurisdiction.]

19 (D) AN ACTION BY A PARK OWNER MAY NOT BE DEEMED TO BE  
 20 RETALIATORY FOR PURPOSES OF THIS SECTION IF THE ALLEGED RETALIATORY  
 21 ACTION OCCURS MORE THAN 6 MONTHS AFTER A RESIDENT'S ACTION THAT IS  
 22 PROTECTED UNDER SUBSECTION (A)(2) OF THIS SECTION.

23 (e) [Nothing] AS LONG AS A PARK OWNER'S NONRENEWAL OF A RENTAL  
 24 AGREEMENT TERMINATION OF A TENANCY IS NOT THE RESULT OF A  
 25 RETALIATORY ACTION, NOTHING in this section may be interpreted to alter the park  
 26 owner's or the resident's rights arising from breach of any provision of a rental  
 27 agreement or rule, or either party's right to terminate or not renew a rental agreement  
 28 pursuant to the terms of the rental agreement or the provisions of other applicable law  
 29 FOR NONRETALIATORY REASONS, INCLUDING IF THE RESIDENT OR THE  
 30 RESIDENT'S FAMILY OR GUESTS HAVE:

31 (1) DISRUPTED OR INTERFERED WITH THE QUIET ENJOYMENT OF  
 32 THE PROPERTY, OTHER RESIDENTS, THE PARK OWNER, OR THE PARK OWNER'S  
 33 STAFF;

34 (2) ENGAGED IN CRIMINAL ACTIVITY, REGARDLESS OF WHETHER  
 35 THE INDIVIDUAL IS CONVICTED;

1                   **(3) CREATED OR CAUSED A PUBLIC NUISANCE ON THE**  
2 **PROPERTY;**

3                   **(4) VIOLATED A PROVISION OF A LOCAL HOUSING, ZONING, OR**  
4 **LIVEABILITY CODE THAT, UNDER THE CODE, IS THE RESPONSIBILITY OF THE**  
5 **RESIDENT; OR**

6                   **(5) BREACHED OR OTHERWISE FAILED TO COMPLY WITH THE**  
7 **TERMS OF THE RENTAL AGREEMENT BETWEEN THE PARTIES.**

8           **(F) IF ANY COUNTY HAS ENACTED OR ENACTS AN ORDINANCE**  
9 **COMPARABLE IN SUBJECT MATTER TO THIS SECTION, THIS SECTION SHALL**  
10 **SUPERSEDE THE PROVISIONS OF THE ORDINANCE TO THE EXTENT THAT THE**  
11 **ORDINANCE PROVIDES LESS PROTECTION TO A RESIDENT.**

12           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13           October 1, 2011.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.